

Georgia Department of Public Health Contract for Services

Solicitation Title Positive Alternatives for Pregnancy	Solicitation Number DPH0000106	Contract Number 40500-043-17172130
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1. This Contract is entered into between the Georgia Department of Public Health and the Contractor named below:

TBD (hereafter called Contractor)

2. Contract to Begin: TBD	Date of Completion: TBD	Renewals: Four (4)
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3. Performance Bond, if any:

Other Bonds, if any:

4. Maximum Amount of this Contract: TBD	Total Financial Obligation of the Department for the First Fiscal Year: TBD	Total Financial Obligation of the Department for each Renewal Period if Renewed: TBD
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IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

5.

TBD

Contractor's Name *(If other than an individual, state whether a corporation, partnership, etc.)*

By *(Authorized Signature)*

Date Signed

Printed Name and Title of Person Signing

Address

6.

Georgia Department of Public Health (hereafter called "DPH" or "Department")

By *(Authorized Signature)*

Date Signed

Printed Name and Title of Person Signing

James C. Howgate, Chief of Staff

Address

2 Peachtree St. NW, 15th Floor, Atlanta, GA 30303

7. Authorized Person to Receive Contract Notices for Department:

Authorized Person to Receive Contract Notices for Contractor:

Business Owner:

TBD

Renee Johnson

Georgia Department of Public Health

Maternal and Child Health Program

2 Peachtree St. NW, 11-227

Atlanta, GA 30303

Phone: 404-657-2728

Email: Renee.Johnson@dph.ga.gov

Contract Administrator:

Jamillia L. Richmond

Georgia Department of Public Health

Procurement Services

2 Peachtree St. NW, 9-212

Atlanta, GA 30303

Phone: 404-232-1142

Email: Jamillia.Richmond@dph.ga.gov

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8. The parties agree to comply with the terms and conditions of the following attachments which are by this reference made a part of the Contract:

Attachment 1: Department of Public Health Terms and Conditions for Contracts for Services
Attachment 2: Vendor Lobbyist Disclosure (pursuant to Georgia Executive Order Number 10.01.03.01, 2003)
Attachment 3: External Entities Audit Standards and Sanctions (pursuant to 2 CFR Part 200, 45 CFR Part 75.501, 7 CFR Part 277.17 <i>Audit Requirements</i> , O.C.G.A. 50-20-1 through 50-20-8)
Attachment 4: Contractor Work Authorization Affidavit O.C.G.A. 13-10-91(b)(1)
Attachment 5: Solicitation (referenced above)
Attachment 6: Contractor's Final Response or Proposal
Attachment 7: Responsibilities, Deliverables and Payment Schedule
Attachment 8: Insurance Forms
Attachment 9: Department of Public Health Form GC-00901A Business Associate Agreement

**Department of Public Health
Attachment 1
Terms and Conditions for Services Contracts**

A. DEFINITIONS AND GENERAL INFORMATION

1. Definitions. The following words shall be defined as set forth below:

- i. **"Contractor"** means the provider of the Services under the Contract as identified in paragraph 1 on page 1.
- ii. **"Department"** means the Georgia Department of Public Health.
- iii. **"Purchase Instrument"** means the documentation issued by the Department to the Contractor for a purchase of Services in accordance with the terms and conditions of the Contract. The Purchase Instrument should reference the Contract and may include an identification of the items to be purchased, the delivery date and location, the address where the Contractor should submit the invoices, and any other requirements deemed necessary by the Department.
- iv. **"Response", "Contractor's Response" or "Final Response"** means the Contractor's response to the RFX, including any modifications or clarifications accepted by the Department.
- v. **"RFX"** means the Request for Proposal, Request for Bid, or other solicitation document (and any amendments or addenda thereto) specifically identified in the Department Standard Contract Form, which solicitation document was issued (electronically or by other means) to solicit the Services that are subject to the Contract.
- vi. **"Services"** means the services and deliverables as provided in the RFX and as further described by the Response and the Contract.

2. Priority of Contract Provisions. Any pre-printed contract terms and conditions included on Contractor's forms, response, or invoices shall be null and void.

3. Reporting Requirements. Contractor shall provide all reports required by the RFX. In addition, unless otherwise provided in the RFX, Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a quarterly written report to the Department.

B. DURATION OF CONTRACT

1. Contract Term. The Contract shall begin and end on the dates specified in the Department Standard Contract Form unless terminated earlier in accordance with the applicable terms and conditions.

2. Contract Renewal. If renewals are authorized on paragraph 2 on page 1, the Department

shall have the option, in its sole discretion, to renew the Contract for additional one-year terms by giving the Contractor written notice of the renewal decision. Upon the Department's election, in its sole discretion, to renew any part of this Contract, Contractor shall remain obligated to perform in strict accordance with this Contract unless otherwise agreed by the Department and the Contractor. The Contract shall be renewed at the same amount with the same deliverables unless otherwise agreed upon.

C. DESCRIPTION OF SERVICES

1. **Specification in Bidding Documents.** All Services shall be provided in accordance with the specifications contained in the RFX, the terms of the Contract, and as further described in Contractor's Response.
2. **Product Shipment and Delivery.** All products, if any, shall be shipped F.O.B. destination. Destination shall be the location(s) specified in the RFX or any provided Purchase Instrument. All items shall be at the Contractor's risk until they have been delivered and accepted by the receiving entity. All items shall be subject to inspection on delivery. Hidden damage will remain the responsibility of the Contractor to remedy without cost to the Department, regardless of when the hidden damage is discovered.

D. COMPENSATION

1. **Pricing and Payment.** The Contractor will be paid for the Services sold pursuant to the Contract in accordance with the RFX and final pricing documents as incorporated by paragraph 6 on page 1. Unless clearly stated otherwise in the Contract, all prices are fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties.
2. **Billings.** If applicable, and unless the RFX provides otherwise, the Contractor shall submit, on a regular basis, an invoice for the Services supplied to the Department under the Contract at the billing address specified in the Purchase Instrument or Contract. The Department shall pay all approved invoices in arrears.

Unless otherwise agreed in writing by the Department and the Contractor, the Contractor shall not be entitled to receive any other payment or compensation from the Department for Services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

3. **Delay of Payment Due to Contractor's Failure.** If the Department in good faith determines that the Contractor has failed to perform or deliver Services as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such Services are properly performed. In this event, the Department may withhold that portion of the Contractor's compensation which represents payment for Services that were not delivered or performed. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the Department to incur costs, the Department may deduct the amount of such incurred costs from any amounts payable to Contractor. The Department's authority to deduct such incurred costs shall not affect the Department's authority to terminate the Contract.

4. **Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes the Department any sum under the terms of the Contract, the Department may set off the sum owed to the Department against any sum owed by the Department to the Contractor in the Department's sole discretion.

E. TERMINATION

1. **Summary Termination.** The Department may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
 - i. The revocation or loss of any certification or license which Contractor is required to have as a condition precedent to providing such Services;
 - ii. The Department determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, a risk to life, health, or safety;
 - iii. The Contractor fails to comply with confidentiality laws or obligations;
 - iv. The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete; or
 - v. Pursuant to O.C.G.A. Section 50-5-64, if the Department determines, in its sole discretion, that appropriated and otherwise unobligated funds are no longer available to satisfy the obligations of the Department under this contract.
2. **Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for the Department to declare the Contractor in default, and to terminate the Contract if such default is not cured to the Department's satisfaction within thirty days after receiving written notice of default:
 - i. The Contractor fails to deliver or has delivered nonconforming Services, or fails to perform, to the Department's satisfaction, any material requirement of the Contract, or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
 - ii. The Department determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
 - iii. The Contractor fails to make substantial and timely progress toward performance of the Contract;
 - iv. The Contractor terminates or suspends its business, or the Department reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
 - v. The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;

- vi. The Contractor has engaged in conduct that has or may expose the Department or the State to liability, as determined in the Department's sole discretion; or
 - vii. The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the Department, the State, or a third party.
- 3. Termination For Convenience.** Following thirty days' written notice, the Department may terminate the Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination for convenience, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for Services provided under the Contract to the Department up to and including the date of termination.
- 4. The Contractor's Termination Duties.** Upon receipt of notice of termination or upon request of the Department, the Contractor shall:
- i. Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the Department may require;
 - ii. Immediately cease using and return to the State, any personal property or materials, whether tangible or intangible, provided by the State to the Contractor;
 - iii. Comply with the State's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
 - iv. Cooperate in good faith with the Department and its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
 - v. Immediately return to the Department any payments made by the Department for Services that were not delivered or rendered by the Contractor.

F. CONFIDENTIAL INFORMATION

- 1. Access to Confidential Data.** The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the State to the extent necessary to carry out the Contractor's responsibilities under the Contract. All information received pursuant to the Contract is confidential and shall remain the property of the Department unless otherwise designated by the Department.
- i. The Contractor shall provide to the State a written description of the Contractor's policies and procedures to safeguard confidential information;
 - ii. Policies of confidentiality shall address, as appropriate, information conveyed in verbal,

written, and electronic formats;

- iii. The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- iv. The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract.

The private or confidential data shall remain the property of the State at all times. Some Services performed for the Department may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

- 2. **No Dissemination of Confidential Data.** No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the State, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the State. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the State.
- 3. **Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor seeking records containing confidential information, the Contractor shall promptly notify the State and cooperate with the State in any lawful effort to protect the confidential information.
- 4. **Reporting of Unauthorized Disclosure.** The Contractor shall immediately report to the State any unauthorized disclosure of confidential information.
- 5. **Survives Termination.** The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

G. INDEMNIFICATION

- 1. **Contractor's Indemnification Obligation.** The Contractor agrees to indemnify and hold harmless the State Government Tort Claims Fund, the Department, and its officers, employees, agents, and volunteers (collectively "Indemnified Parties") from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, related to or arising from:
 - i. Any breach of the Contract;
 - ii. Any negligent, intentional, or wrongful act or omission of the Contractor or its employees, agents, or subcontractors;
 - iii. Any failure of Services to comply with applicable specifications, warranties, and certifications under the Contract;

- iv. The negligence or fault of the Contractor in design, testing, development, manufacture, or otherwise with respect to the Services provided under the Contract;
- v. Claims, demands, or lawsuits that, with respect to any goods that may be furnished under this Contract, allege product liability, strict product liability, or any variation thereof;
- vi. The Contractor's performance or attempted performance of the Contract, including any employee, agent or subcontractor utilized or employed by the Contractor;
- vii. Any failure by the Contractor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Contractor to conduct business in the State of Georgia or the United States;
- viii. Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
- ix. Any failure by the Contractor to adhere to the confidentiality provisions of the Contract.

- 2. Patent/Copyright Infringement Indemnification.** Contractor shall, at its own expense, be entitled to and shall have the duty to assist in the defense of any suit instituted against the State and indemnify the State against any award of damages and costs made against the State in such suit insofar as the same is based on any claim that any of the Services constitutes an infringement of any United States Letters Patent or copyright, provided the State gives the Contractor immediate notice in writing of the institution of such suit, permits Contractor to fully participate in the defense of the same, and gives Contractor all available information, assistance and authority to enable Contractor to do so. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement shall be binding upon the State unless approved by the State.

In case any of the Services is in any suit held to constitute infringement and its use is enjoined, Contractor shall, at its option and expense:

- i. Procure for the State the right to continue using the Services;
- ii. Replace or modify the same so that it becomes non-infringing; or
- iii. Remove the same and cancel any future charges pertaining thereto.

Contractor, however, shall have no liability to the State if any such patent, or Copyright infringement or claim thereof is based upon or arises out of any patent or copyright in which the Department or any affiliate or subsidiary of the Department has any direct interest by license or otherwise.

- 3. Survives Termination.** The indemnification obligation of the Contractor shall survive termination of the Contract.

H. INSURANCE

Contractor shall provide all insurance as required by the RFX.

I. BONDS

The Contractor shall provide all required bonds in accordance with the terms of the RFX and as stated in paragraph 3 on page 1.

J. WARRANTIES

- 1. Construction of Warranties Expressed in the Contract with Warranties Implied by Law.** All warranties and representations made by the Contractor and its subcontractors in the Contract and the Contractor's Response, whether or not the Contract specifically denominates warranties and representations as a warranty or whether the warranty is created only by the Contractor's affirmation or promise, or is created by a description of the Services to be provided, or by provision of samples to the State shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade, the warranty of merchantability, and the warranty of fitness for a particular purpose. The warranties expressed in the Contract are intended to supplement any warranties that may be implied or imposed by law.
- 2. Warranty – Nonconforming Services and Goods.** All Services and any goods delivered by Contractor to the Department shall be free from any defects in design, material, or workmanship. If any Services or goods offered by the Contractor are found to be defective in material or workmanship, or do not conform to Contractor's warranty, then the Department shall have the option of remedying same at Contractor's expense. Payment by the Department shall not constitute acceptance or relieve the Contractor of any obligation under the Contract.
- 3. Compliance with Federal Safety Acts.** Contractor warrants and guarantees to the State that the Services provided under the Contract are in compliance with Sections 5 and 12 of the Federal Trade Commission Act; the Fair Packaging and Labeling Act; the Federal Food, Drug, and Cosmetic Act; the Consumer Product Safety Act; the Federal Environmental Pesticide Control Act; the Federal Hazardous Substances Act; the Fair Labor Standards Act; the Wool Products Labeling Act; the Flammable Fabrics Act; the Occupational Safety and Health Act; the Office of Management and Budget A-110 Appendix A; and the Anti-Kickback Act of 1986.
- 4. Conformity with Contractual Requirements. Originality and Title to Concepts, Materials, and Goods Produced.** Contractor represents and warrants that the Services provided to the State shall be wholly original with the Contractor or that the Contractor has secured all applicable interests, rights, licenses, permits or other intellectual property rights necessary to provide such Services.
- 5. Title to Property.** The Contractor represents and warrants that title to any property assigned, conveyed or licensed to the State is good and that transfer of title or license to the State is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance. Title to any supplies, materials, or equipment shall remain in the Contractor until fully paid for by the Department. Except as otherwise expressly authorized by the Department, all materials produced by Contractor personnel in performance of Services,

including but not limited to software, charts, graphs, diagrams, video tapes and other project documentation shall be deemed to be work made for hire and shall be the property of the State of Georgia.

- 6. Industry Standards.** The Contractor warrants that all aspects of the Services provided by it shall at a minimum conform to the standards in the Contractor's industry. This requirement shall be in addition to any express warranties, representations, and specifications included in the Contract, which shall take precedence.
- 7. Contractor's Personnel and Staffing.** Contractor warrants that all persons assigned to perform the Services under this Contract are either lawful employees of Contractor or lawful employees of a Subcontractor authorized by the Department. All of Contractor or any subcontractor's personnel shall comply with the confidentiality requirements of the Contract and the security requirements of the applicable Department while on state property. In the event that any of Contractor or subcontractor's personnel do not comply with such confidentiality and security requirements, the Department may have the personnel removed from State premises.

All persons assigned to perform the Services under this Contract shall be qualified to perform such Services. Personnel assigned by Contractor shall have all professional licenses required to perform the Services. If the Department believes that the performance or conduct of any person employed or retained by Contractor to perform any Services hereunder is unsatisfactory for any reason or is not in compliance with the provisions of this Contract, the Department shall notify Contractor in writing and Contractor shall promptly address the performance or conduct of such person, or, at the Department's request, immediately replace such person with another person acceptable to the Department and with sufficient knowledge and expertise to perform the Services in accordance with this Contract.

Contractor warrants that an adequate number of appropriately qualified personnel will be employed and available to provide the Services in accordance with the schedule and maintenance requirements set forth in the RFX and this Contract.

K. PRODUCT RECALL

If this Contract includes the provision of goods and in the event that any of the goods are found by the Contractor, the State, any governmental agency, or court to contain a defect, serious quality or performance deficiency, or not to be in compliance with any standard or requirement so as to require or make advisable that such goods be reworked or recalled, the Contractor will promptly communicate all relevant facts to the Department and undertake all corrective actions, including those required to meet all obligations imposed by laws, regulations, or orders, and shall file all necessary papers, corrective action programs, and other related documents, provided that nothing contained in this section shall preclude the Department from taking such action as may be required of it under any such law or regulation. The Contractor shall perform all necessary repairs or modifications at its sole expense except to any extent that the Contractor and the State shall agree to the performance of such repairs by the State upon mutually acceptable terms.

L. CONTRACT ADMINISTRATION

1. **Order of Preference.** In the case of any inconsistency or conflict among the specific provisions of the Department Standard Contract Terms and Conditions (including any amendments accepted by both the Department and the Contractor attached hereto), the RFX (including any subsequent addenda), and the Contractor's Response, any inconsistency or conflict shall be resolved as follows:
 - i. First, by giving preference to the specific provisions of the Department Standard Contract Terms and Conditions.
 - ii. Second, by giving preference to the specific provisions of the RFX.
 - iii. Third, by giving preference to the specific provisions of the Contractor's Response, except that objections or amendments by a Contractor that have not been explicitly accepted by the Department in writing shall not be included in this Contract and shall be given no weight or consideration.
2. **Intent of References to Bid Documents.** The references to the parties' obligations, which are contained in this document, are intended to supplement or clarify the obligations as stated in the RFX and the Contractor's Response. The failure of the parties to make reference to the terms of the RFX or the Contractor's Response in this document shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the RFX and the Contractor's Response. The contractual obligations of the Department cannot be implied from the Contractor's Response.
3. **Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders now or hereafter in effect when performing under the Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or contractors. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under the Contract. Contractor and Contractor's personnel shall also comply with all State and Department policies and standards in effect during the performance of the Contract, including but not limited to the Department's policies and standards relating to personnel conduct, security, safety, confidentiality, and ethics.
4. **Drug-free Workplace.** The Contractor hereby certifies as follows:
 - i. Contractor will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Contract; and
 - ii. If Contractor has more than one employee, including Contractor, Contractor shall provide for such employees a drug-free workplace, in accordance with the Georgia Drug-free Workplace Act as provided in O.C.G.A. Section 50-24-1 et seq., throughout the duration of this Contract; and

iii. Contractor will secure from any subcontractor hired to work on any job assigned under this Contract the following written certification: "As part of the subcontracting agreement with (Contractor's Name), (Subcontractor's Name) certifies to the contractor that a drug-free workplace will be provided for the subcontractor's employees during the performance of this Contract pursuant to paragraph 7 of subsection (b) of Code Section 50-24-3".

- 5. Amendments.** The Contract may be amended only through a writing signed by both parties. If the contract award exceeds the delegated purchasing authority of the Department, then the Department must obtain approval of the amendment from the Department of Administrative Services (DOAS).
- 6. Third Party Beneficiaries.** There are no third-party beneficiaries to the Contract. The Contract is intended only to benefit the State and the Contractor.
- 7. Choice of Law and Forum.** The laws of the State of Georgia shall govern all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. In the event any civil action is commenced in connection with this Contract, such civil action shall be brought in the State or Superior Court of Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the State.
- 8. Notice of Intent to Litigate and Alternative Dispute Resolution Procedures.** No civil action with respect to any dispute, claim, or controversy arising out of or relating to this Contract may be commenced without first giving fourteen calendar days written notice of the claim and the intent to initiate a civil action. At any time prior to the commencement of a civil action, the State may elect to submit the matter to non-binding mediation or to binding arbitration. The parties will cooperate with one another in selecting a mediator or arbitrator and in scheduling the mediation or arbitration proceedings. Venue for the mediation or arbitration will be in Atlanta, Georgia; provided, however, that any mediation proceedings may be conducted by teleconference with the consent of the mediator. The parties covenant that they will participate in the mediation in good faith.
- All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or employees of any mediation service, are inadmissible for any purpose (including but not limited to impeachment) in any proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.
- No party may commence a civil action with respect to any matters submitted to mediation until forty-five days after the completion of the initial mediation session.
- 9. Assignment and Delegation.** The Contract may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the Department.
- 10. Use of Third Parties.** Except as may be expressly agreed to in writing by the Department, Contractor shall not subcontract, assign, delegate or otherwise permit anyone other than

Contractor or Contractor's personnel to perform any of Contractor's obligations under this Contract or any of the work subsequently assigned under this Contract. No subcontract which Contractor enters into with respect to performance of obligations or work assigned under the Contract shall in any way relieve Contractor of any responsibility, obligation or liability under this Contract and for the acts and omissions of all subcontractors, agents, and employees. All restrictions, obligations and responsibilities of the Contractor under the Contract shall also apply to the subcontractors. Any contract with a subcontractor must also preserve the rights of the Department. The Department shall have the right to request the removal of a subcontractor from the Contract for good cause.

- 11. Integration.** The Contract represents the entire agreement between the parties. The parties shall not rely on any representation that is not included in the Contract. Unless otherwise specified in the Contract, this Contract supersedes all prior contracts or agreements between the Department and the Contractor for the Services provided in connection with the Contract.
- 12. Not a Joint Venture.** Nothing in the Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, or principal and agency relationship between the parties. Neither Contractor nor any of Contractor's agents, servants, employees, subcontractors or contractors shall become or be deemed to become agents, servants, or employees of the State.
- 13. Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Department and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.
- 14. Severability.** If any provision of the Contract is determined to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Contract. Further, if any provision of the Contract is determined to be unenforceable by virtue of its scope, but may be made enforceable by a limitation of the provision, the provision shall be deemed to be amended to the minimum extent necessary to render it enforceable under the applicable law.
- 15. Time is of the Essence.** Time is of the essence with respect to the performance of the terms of the Contract.
- 16. Record Retention and Access.** The Contractor shall maintain books, records and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the State throughout the term of the Contract for a period of at least five years following the date of final payment, termination, or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records. The Contractor shall permit the Auditor of the State of Georgia or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States, or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to the Contract, wherever such

records may be located during normal business hours. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. If an audit discloses incorrect billings or improprieties, the State reserves the right to charge the Contractor for the cost of the audit and appropriate reimbursement. Evidence of criminal conduct will be turned over to the proper authorities.

- 17. Debarred, Suspended, and Ineligible Status.** Contractor warrants that neither Contractor nor any of its subcontractors has been debarred, suspended, or declared ineligible by any agency of the State of Georgia, or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch.1 Subpart 9.4. Contractor will immediately notify the Department if Contractor is debarred by the State or placed on the Consolidated List of Debarred, Suspended, and Ineligible Contractors by a federal entity.
- 18. Use of Name or Intellectual Property.** Contractor agrees it will not use the name of the Georgia Department of Public Health or any intellectual property owned by the State of Georgia, including but not limited to State trademarks or logos, in any manner, including commercial advertising or as a business reference, without the express prior written consent of the Department.
- 19. Taxes.** Contractor is responsible for the payment of any federal taxes that may be due on goods or services provided under this Contract, including income tax withholding and payroll taxes. The Department is exempt from State and Local Sales and Use Taxes. Tax Exemption Certificates will be furnished upon request.
- 20. Certification Regarding Sales and Use Tax.** By executing the Contract the Contractor certifies it is either (a) registered with the State Department of Revenue, collects, and remits State sales and use taxes as required by Georgia law, including Chapter 8 of Title 48 of the O.C.G.A.; or (b) not a "retailer" as defined in O.C.G.A. Section 48-8-2.
- 21. Obligations Beyond Contract Term.** All obligations of the Contractor incurred or existing under the Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of the Contract.
- 22. Further Assurances and Corrective Instruments.** The Department and the Contractor agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further documents as may reasonably be required for carrying out the Contract.
- 23. Transition Cooperation and Cooperation with other Contractors.** Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to the State or another contractor. The Contractor shall provide full disclosure to the State and the third-party contractor about the equipment, software, or services required to perform the Services for the State. The Contractor shall transfer licenses or assign agreements for any software or third-party services used to provide the Services to the State or to another contractor.

Further, in the event that the State has entered into or enters into agreements with other contractors for additional work related to Services rendered under the Contract, Contractor

agrees to cooperate fully with such other contractors. Contractor shall not commit any act, which will interfere with the performance of work by any other contractor.

ATTACHMENT 2
VENDOR LOBBYIST DISCLOSURE AND REGISTRATION CERTIFICATION FORM

Pursuant to Executive Order Number 10.01.03.01 (the "Order"), which was signed by Governor Sonny Perdue on October 1, 2003, Contractors with the state are required to complete this form. The Order requires "Vendor Lobbyists," defined as those who lobby state officials on behalf of businesses that seek a contract to sell goods or services to the state or those who oppose such a contract, to certify that they have registered with the State Ethics Commission and filed the disclosures required by Article 4 of Chapter 5 of Title 21 of the Official Code of Georgia Annotated. Consequently, every vendor desiring to enter into a contract with the state must complete this certification form. False, incomplete, or untimely registration, disclosure, or certification shall be grounds for termination of the award and contract and may cause recoupment or refund actions against Contractor.

In order to be in compliance with Executive Order Number 10.01.03.01, please complete this Certification Form by designating only one of the following:

- ☐ Contractor *does not have any* lobbyist employed, retained, or affiliated with the Contractor who is seeking or opposing contracts for it or its clients. Consequently, Contractor has not registered anyone with the State Ethics Commission as required by Executive Order Number 10.01.03.01 and any of its related rules, regulations, policies, or laws.
- ☐ Contractor *does have* lobbyist(s) employed, retained, or affiliated with the Contractor who are seeking or opposing contracts for it or its clients. The lobbyists are:

Contractor states, represents, warrants, and certifies that it has registered the above named lobbyists with the State Ethics Commission as required by Executive Order Number 10.01.03.01 and any of its related rules, regulations, policies, or laws.

- ☐ Contractor is a Georgia state agency.

CONTRACTOR NAME (print): _____

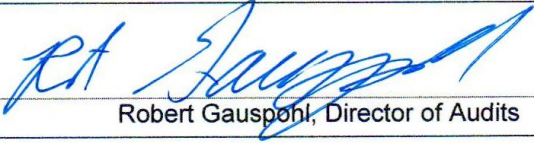

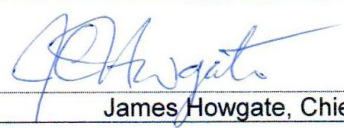
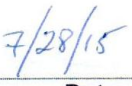
BY: _____

SIGNATURE DATE

ATTACHMENT 3



GEORGIA DEPARTMENT OF PUBLIC HEALTH POLICY # AU-02001 EXTERNAL ENTITIES AUDIT STANDARDS AND SANCTIONS POLICY

Approval:		
	Robert Gauspohl, Director of Audits	Date
		
	James Howgate, Chief of Staff	Date

1.0 PURPOSE

To ensure that those non-federal entities which receive funds from the Department of Public Health (DPH) conform to the standards and requirements imposed by federal and state law and by DPH's Contracts. Sanctions are imposed on those entities that do not comply with the standards and/or audit requirements.

1.1 AUTHORITY – The Georgia Department of Public Health (DPH) External Entities Audit Standards and Sanction Policy is published under the authority of DPH and in compliance with the following:

1.1.1 Official Code of Georgia Annotated (OCGA), Sections:

50-20-1 through 50-20-8 as amended, 1998 Legislative Session

Single Audit Act Amendments of 1996 (PL 104-156)

1.1.2 2 CFR Part 200

CFR Title 45, Part 75.501

CFR Title 7, Part 277.17 entitled *Audit Requirements*

Standards for Audit of Governmental Organizations, Programs, Activities and Functions

2.0 SCOPE

This policy applies to all non-federal entities which receive funds from the Department of Public Health (DPH).

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3.0 POLICY

Entities that contract with the Department must meet certain financial reporting requirements. These requirements are defined in: the Single Audit Act Amendment of 1996; 2 CFR Part 200.501; Contract Provisions; DPH Policy; and Title 50, Chapter 20, Sections 1 through 8 of the Official Code of Georgia Annotated. The requirements vary according to the dollar amount expended by the entity during its accounting year. The DPH Office of Audits and the Public Health Programmatic Officers/Business Owners have certain responsibilities that are delineated below. Several words and phrases are used in these procedures that may have meaning that is special to these procedures. These words and phrases are defined below along with the addresses of the Public Health Office of Audits and the State Department of Audits:

Public Health Office of Audits

Public Health Office of Audits
Two Peachtree Street, NW
Suite 9-100
Atlanta, Georgia 30303-3142

State Department of Audits:

State Department of Audits and Accounts
Professional Practices Division, Suite 214
254 Washington Street, SW
Atlanta, Georgia 30334-8400

4.0 DEFINITIONS

- 4.1 Budget Category** - A numbering system used for budget and accounting purposes that corresponds to a specific program name. Numbers reduce chances of confusion with similar program names.
- 4.2 Contractor's Fiscal Year** - The 12-month accounting period established by the entity as its business year, which is on file with the U.S. Internal Revenue Service as the basis for filing required for tax and Tax Exempt Status Returns.
- 4.3 Entity** - An organization receiving funds from DPH exclusive of Public Health field offices.
- 4.4 Expense Category** - A numbering system corresponding to a list of specific services within a Budget Category, where the amount of funds used to pay for the service are recorded for accounting purposes.
- 4.5 Independent Auditor** –
 - 4.5.1 A Certified Public Accountant (CPA); or
 - 4.5.2 A Registered Public Accountant (RPA) licensed on or before December 31, 1970; or

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- 4.5.3 A government Auditor located outside the staff or line management function of the unit under audit.

To be independent, the auditor's relationship with the auditee is of such an "arm's length" nature so as to preclude any **appearance** of bias, or any obligation to or interest in the auditee, its management or its owners. Relationships or combinations of relationships with the auditee must not create any conflict of interest that impairs the auditor's integrity and objectivity with respect to the audit engagement. It is inappropriate in some circumstances for auditors to perform both audit and non-audit services for the same client.

- 4.5.4 **Major Program** - A federally funded program determined by the auditor to be a major program in accordance with 2 CFR Part 200, Section_.518 or a program defined as a major program by a federal agency.

- 4.5.5 **Non-Federal Entity** - A state, local government, or a nonprofit organization.

- 4.5.6 **Non-Profit Organization** - Any corporation, trust, association, cooperative, or other organization that is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for profit; and uses its net proceeds to maintain, improve, or expand its operations.

- 4.5.7 **Program** - A grouping of activities and resources to accomplish a mission with specific goals and objectives. Some programs have names, some have numbers, and some have both. Usually programs are budgeted by number for ease of tracking and to reduce potential confusion. Budget categories can and are considered to be programs. Federal programs are considered to be those activities that are or can be assigned a single number in the Catalog of Federal Domestic Assistance (CFDA). When no CFDA number is assigned, all federal awards from the same agency made for the same purpose are to be combined and considered one program. Throughout this procedure, the term "program" refers either to a named activity or an activity that is numbered.

- 4.5.8 **Public Entity** - Includes, but is not limited to: state and local governments and their instrumentalities; authorities; county Boards of Health; Community Service Boards; and District Attorneys (judicial circuits) operating programs through contracts with DPH.

- 4.5.9 **Sanctions** - Penalties imposed by the Department on those fund recipients who do not abide by their contract requirements for audit reports and fail to comply with state law regarding timeliness. Sanctions may include: reimbursements being withheld, contracts being canceled, recoupment of

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funds, and denial of further contracts with the Department for a period of 12 months.

- 4.5.10 **Schedule of State Awards Expended** - A schedule arranged by state program name and contract number that reflects revenues, expenditures, or expenses and amounts owed to and due from each state organization. Amounts listed for each program should include federal funds that pass through state organizations to the entity.

5.0 RESPONSIBILITIES

The Inspector General, Office of Audits shall ensure compliance to this policy and procedure.

6.0 PROCEDURES

Prior to executing a contract between the DPH and a non-profit organization, the organization furnishes a previous year's audit. If the entity has been in existence for less than a year, then they furnish unaudited financial statements. If no audit or unaudited financial statements are on record with DPH, the following procedure is followed:

6.1 REQUIREMENTS PRIOR TO CONTRACT

- 6.1.1 The contracting Division or Section requests such audit or financial statements as part of its negotiation or solicitation process.
- 6.1.2 The entity furnishes an audit report (or unaudited financial statements, if appropriate) to the DPH Division of Operations, Procurement and Contract Administration Section, as a part of its contract package.
- 6.1.3 When it is received, the financial information is forwarded to the DPH Office of Audits for a compliance review.
- 6.1.4 The Office of Audits reviews the information and determines compliance with O.C.G.A. Section 50-20-1 through 50-20-8, as amended, 1998 Legislative Session.
- 6.1.5 The Office of Audits notifies the Contracts Section of the Division of Operations and/or the Programmatic Officer/Business Owner of the results of its review. For instances of non-compliance with requirements, the omitted items are specified.

6.2 ENTITIES EXPENDING \$750,000 OR MORE IN FEDERAL FUNDS

All entities expending \$750, 000 or more in federal funds during their fiscal year

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comply with: the provisions of the Single Audit Act Amendments of 1996 and their implementing regulation – 2 CFR Part 200.501; with contract provisions; and with DPH Policy. Non-profit organizations must comply with the provisions of the O.C.G.A. Annotated, Section 50-20-1 through 50-20-8, as amended, 1998 Legislative Session. Audits of nonprofit organizations also include a *Schedule of State Awards Expended*.

These entities obtain a single entity-wide audit of their financial records performed by an independent auditor. The audit covers all financial activities for the fiscal year and is conducted in accordance with Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States.

Audits for public entities include, for those contracts that were completed during the audit period, a *Statement of Revenues and Expenditures Compared to Budget*, presented by program name or contract name and number. This statement is presented by contract name and number for the entire contract period. Audits of public entities also include a *Schedule of State Awards Expended*.

The entity files one copy of the independent auditor's report with the Audit Director, DPH Office of Audit, within 180 days after the end of the organization's fiscal year. Additionally, private nonprofit organizations submit one copy of the report to the State Department of Audits and Accounts within the same time period.

If an extension of the time period is desired, the State Department of Audits (for private nonprofit entities) or the DPH Office of Audits (for public entities) may waive the requirement for completion if a request is made that shows good cause. The waiver is for an additional period of not more than 90 days, and no such waiver is granted for more than two successive years to the same entity. A plan of corrective action for all deficiencies disclosed in the audit report is submitted with the audit report.

6.3 ENTITIES EXPENDING \$100,000 OR MORE IN FEDERAL FUNDS

All entities expending \$100,000 or more in state funds during their fiscal year comply with contract provisions and DPH policy. Nonprofit organizations also comply with the provisions of the O.C.G.A. Annotated, Section 50-20-1 through 50-20-8, as amended, 1998 Legislative Session. Audits of nonprofit organizations also include a *Schedule of State Awards Expended*.

These entities obtain an entity-wide audit of their financial records performed by an independent auditor. The audit is conducted in accordance with Generally Accepted Auditing Standards issued by the American Institute of Certified Public Accountants and the financial statements are prepared in accordance with generally accepted accounting principles. Audits for public entities include, for those contracts that were completed during the audit period, a *Statement of Revenues and Expenditures Compared to Budget*, presented by program name or

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contract name and number. This statement is presented by contract name and number for the entire contract period. Audits of public entities also include a *Schedule of State Awards Expended*.

The entity files one copy of the independent auditor's report with the Audit Director, DPH Office of Audits, within 180 days after the end of the organization's fiscal year. Additionally, private nonprofit organizations submit one copy of the report to the State Department of Audits and Accounts within the same time period. If an extension of the time period is desired, the State Department of Audits (for private nonprofit entities) or the DPH Audits Section (for public entities) may waive the requirement for completion if a request is made that shows good cause. The waiver is for an additional period of not more than 90 days, and no such waiver is granted for more than two successive years to the same entity. A plan of corrective action for all deficiencies disclosed in the audit report is submitted with the audit report.

6.4 ENTITIES EXPENDING BETWEEN \$25,000 AND \$100,000 IN STATE FUNDS

All entities expending at least \$25,000 but less than \$100,000 in state funds during their fiscal year comply with contract provisions and DPH policy by submitting audited or unaudited financial statements. Nonprofit organizations are also required to comply with the provisions of the O.C.G.A. Annotated, Section 50-20-1-through 50-20-8, as amended, 1998 Legislative Session. Audits or financial statements of nonprofit organizations also include a *Schedule of State Awards Expended*.

Financial statements that have been audited include the auditor's report on the financial statements. Audits for public entities include, for those contracts that were completed during the audit period, a *Statement of Revenues and Expenditures Compared to Budget*, presented by program name or contract name and number. This statement is presented by contract name and number for the entire contract period. Audits or financial statements of public entities also include a *Schedule of State Awards Expended*.

Financial statements that have not been audited include a statement from the president or other responsible official of the organization which states that:

- 6.4.1 The financial statements are presented in accordance with generally accepted accounting principles and, if not, the basis used for their presentation;
- 6.4.2 The financial statements are prepared on a basis consistent with that of the preceding year, and if not, the respects in which they differ from the preceding year;
- 6.4.3 The financial statements of public entities include for those contracts that were completed during the audit period, a *Statement of Revenues and*

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Expenditures Compared to Budget, presented by program name or contract name and number. This statement is presented by contract name and number for the entire contract period. The financial statements of public entities also include a *Schedule of State Awards Expended*.

The entity files one copy of the audit or financial statements with the Audit Director, DPH Office of Audits, within 180 days after the end of the organization's fiscal year. Additionally, private nonprofit organizations submit one copy of the report to the State Department of Audits and Accounts within the same time period. If an extension of the time period is desired, the State Department of Audits (for private nonprofit entities) or the DPH Office of Audits (for public entities) may waive the requirement for completion if a request is made that shows good cause. The waiver is for an additional period of not more than 90 days, and no such waiver is granted for more than two successive years to the same entity. A plan of corrective action for all deficiencies disclosed in the audit report is submitted with the audit report.

6.5 ROLE OF THE DPH OFFICE OF AUDITS

The Office of Audits:

- 6.5.1 Requests the required audit or financial statements, management reports, memoranda and internal documents from those entities that have failed to provide them;
- 6.5.2 Reviews the audit reports for financial settlement amounts, questioned costs, and findings and recommendations;
- 6.5.3 Communicates the dollar amounts of financial settlements to the DPH Division of Finance for settlement;
- 6.5.4 Requests corrective action plans to preclude recurrence of findings from those entities that have failed to provide them;
- 6.5.5 Forwards one copy of the audit report or financial statements to the Programmatic Officer/Business Owner; and
- 6.5.6 Notifies the appropriate DPH Programmatic Officer/Business Owner of those entities which have not complied with the filing requirements of this policy as well as the DPH Division of Finance that will impose the appropriate sanctions.

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6.6 ROLE OF THE PROGRAMMATIC OFFICER/BUSINESS OWNER

The Programmatic Officer/Business Owner:

- 6.6.1 Insures that appropriate programmatic corrective actions are implemented when required by an audit report;
- 6.6.2 Reviews audits for compliance with programmatic performance goals;
- 6.6.3 Enforces corrective action on repeat findings; and
- 6.6.4 Approves or disapproves budget and spending variances.

7.0 REVISION HISTORY

REVISION #	REVISION DATE	REVISION COMMENTS
0	July 1, 2011	Initial Issue
1	July 9, 2012	Annual review and update. Reformat to new template
2	July 23,2015	Annual review and update.

8.0 RELATED FORMS

None

ATTACHMENT 4
Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which seeks to bid or sign a contract for the performance of labor or services on behalf of the Georgia Department of Public Health, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the performance of labor or services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

This _____ day of _____, _____

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

Subscribed before me this _____ day of _____, _____

NOTARY PUBLIC

My Commission Expires: _____

[DPH Form CG09008A (Rev. 7.2013): For use with contracts for labor or services of \$2500 or more]

**ATTACHMENT 5
SOLICITATION**

ATTACHMENT 6
CONTRACTOR'S RESPONSE/PROPOSAL

ATTACHMENT 7

CONTRACT SCOPE, RESPONSIBILITIES, DELIVERABLES, PAYMENT SCHEDULE

1. SCOPE OF WORK

The Positive Alternatives for Pregnancy and Parenting Program is established to promote healthy pregnancies and childbirth by awarding funding to nonprofit organizations to provide pregnancy support services to indigent women at no cost. The Contractor shall serve as the Contract Management Agency ("Agency") which is responsible for administering the Program. The Agency will select Direct Client Service Providers ("Providers") and subcontract with the Providers to provide pregnancy support services, monitor compliance of the Providers, and provide programmatic and financial reports to the Georgia Department of Public Health ("DPH").

2. DEFINITIONS

Agency means the entity selected by DPH to serve as contract management agency in accordance with O.C.G.A. § 31-2A-33, and its successors.

Attending Physician means the physician who has primary responsibility at the time of reference for the treatment and care of the client.

Eligible Client means a woman who is a resident of Georgia, who is or believes she may be pregnant, and who is medically indigent.

Medically Indigent means a person who is without health insurance or who has health insurance that does not cover pregnancy or related conditions for which treatment and services are sought, and whose family income does not exceed 200% of the federal poverty level as defined annually by the federal Office of Management and Budget.

Pregnancy Support Services means the following:

- (a) Medical care and information, including but not limited to pregnancy tests, sexually transmitted infection tests, other health screening, ultrasound service, prenatal care, and birth classes and planning;
- (b) Nutritional services and education;
- (c) Housing, education, and employment assistance during pregnancy and up to one year following a birth;
- (d) Adoption education, planning, and services;
- (e) Child care assistance if necessary for the client to receive pregnancy support services;
- (f) Parenting education and support services for up to one year following a birth;
- (g) Material items which are supportive of pregnancy and childbirth including, but not limited to, cribs, car seats, clothing, formula, or other safety devices; and

- (h) Information regarding health care benefits, including but not limited to, available Medicaid coverage for the client for pregnancy care that provides health coverage for the client's child upon his or her birth.

Program means the Positive Alternatives for Pregnancy and Parenting Program established pursuant to O.C.G.A. § 31-2A-31 *et seq.*

3. SPECIFIC CONTRACTOR RESPONSIBILITIES

Agency shall complete the following actions, tasks, obligations and responsibilities:

- A. Develop and implement an advertising method to notify providers of the availability of funding.
- B. Develop and implement a selection process for providers based on the following DPH guidelines.
 - i. On a yearly basis, using the guidelines below, Agency shall select Direct Client Service Providers to provide Pregnancy Support Services to Eligible Clients at no cost;
 - ii. Application process. Agency shall create and implement a process to select Providers that apply for and compete to participate in the Program. Providers shall submit applications in a competitive application process. As part of the process, Agency shall require Providers to complete the application form, attached as **Exhibit "A" Application to Participate in Pregnancy Support Services Program** and provide the required documentation.
 - iii. Successful applications by Providers must demonstrate, at minimum, the following Provider qualifications:
 - (1) Be a nonprofit organization incorporated in this state with a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986;
 - (2) Have a primary mission of promoting healthy pregnancy and childbirth;
 - (3) Have a system of financial accountability consistent with generally accepted accounting principles, including an annual budget;
 - (4) Have a board that hires and supervises a director who manages the organization's operations;
 - (5) Have provided pregnancy support services for a minimum of one year;
 - (6) Currently offer pregnancy tests and counseling for women who are or may be experiencing unplanned pregnancies;
 - (7) Will be able to offer, if selected, all eight pregnancy support services:

- a. Medical care and information, including but not limited to pregnancy tests, sexually transmitted infection tests, other health screening, ultrasound service, prenatal care, and birth classes and planning;
- b. Nutritional services and education;
- c. Housing, education, and employment assistance during pregnancy and up to one year following a birth;
- d. Adoption education, planning, and services;
- e. Child care assistance if necessary for the client to receive pregnancy support services;
- f. Parenting education and support services for up to one year following a birth;
- g. Material items which are supportive of pregnancy and childbirth including, but not limited to, cribs, car seats, clothing, formula, or other safety devices; and
- h. Information regarding health care benefits, including but not limited to, available Medicaid coverage for the client for pregnancy care that provides health coverage for the client's child upon his or her birth.

(8) Maintain confidentiality of all data, files, and records of Eligible Client related to the services provided and in compliance with state and federal laws.

- iv. Provider's application must demonstrate that Provider has competent experience and the capacity to provide all eight Pregnancy Support Services, through its own personnel and facilities or through competent and experienced third-party vendors under contract to Provider.
- v. Provider applications must also require the following information:
 - 1) Annual revenue for the prior year;
 - 2) Number of medically indigent women who were provided pregnancy related services served during the prior year;
 - 3) Number of each of the Pregnancy Support Services provided during the prior year;
 - 4) Additional pregnancy related services provided;

- 5) Estimate of additional number of Eligible Clients that can be served with the funding;
 - 6) Estimate of additional number of each of the Pregnancy Support Services that can be provided with the funding;
 - 7) The amount of funding estimated to be needed for each of the Pregnancy Support Services, with an itemized estimate for each;
 - 8) Total amount of funding requested (up to 85% of the annual revenue for the prior year in accordance with O.C.G.A. § 31-2A-35(b));
 - 9) Copies of printed materials offered during the prior year to encourage childbirth instead of voluntary termination of pregnancy and which assist pregnant women or women who believe they may be pregnant to choose childbirth whether they intend to parent or select adoption for the child;
 - 10) A plan for reaching Eligible Clients;
 - 11) A plan for advertising Pregnancy Support Services; and
 - 12) Current location and an explanation of how it is accessible to Eligible Clients.
- vi. Agency shall also consider the following qualifications in selecting Providers:
- 1) Quality of services;
 - 2) Office location with dedicated space to provide confidential, direct in-person counselling;
 - 3) Ability to reach Eligible Clients in need of services; and
 - 4) Ability to serve Eligible Clients in geographic areas of the state not covered by other Providers.
- C. Evaluate Provider applications on a competitive basis and recommend Providers to DPH that demonstrate competent experience and capacity to provide all of the required Pregnancy Support Services and that satisfy all minimum requirements. Agency shall provide the results of its Provider evaluations to DPH in a report format.
- D. Communicate written acceptance or denial of applications, that have been approved by DPH, to Direct Client Service Providers;

- E. Enter into a subcontract with provider for the provision of services. Agency shall use the attached **Exhibit “B” Agreement to Provide Pregnancy Support Services**.
- F. Require Providers to submit monthly reports to the Agency. Such reports will include the following:
- (i) the unduplicated number of Eligible Clients who visited Provider;
 - (ii) the unduplicated number of Eligible Clients who received one or more Pregnancy Support Services;
 - (iii) the unduplicated number of Eligible Clients who received each of the eight Pregnancy Support Services;
 - (iv) the unduplicated number of Eligible Clients who were determined to be pregnant; and
 - (v) the unduplicated number of Eligible Clients who:
 - 1. carried their pregnancy to term, and chose to keep the child;
 - 2. carried their pregnancy to term, and chose to give the child up for adoption;
 - 3. chose to abort the pregnancy; and
 - 4. the number of Eligible Clients seen for whom Provider was unable to verify the ultimate decision with regard to the pregnancy.
- G. Monitor the continuing compliance with the subcontract and ensure that Providers fulfill all subcontract requirements.
- H. Process, inspect, review, and approval subcontractors’ budgets, invoices for payment and documentation of expenditures.
- I. Maintain records for each applicant and award; and
- J. Coordinate activities and correspondence between the DPH and Direct Client Service Providers.
- K. Develop and implement an evaluation plan to monitor progress and outcomes for the proposed Pregnancy Support Services, as outlined in its application.
- L. Submit timely and complete quarterly and end of the year programmatic reports using the forms provided by DPH.
- M. Establish a procedure for reviewing and responding to any complaints against Direct Client Service Providers from Eligible Clients.

- N. Protect the confidentiality of Eligible Clients' personal health information in accordance with HIPPA.

4. DPH RESPONSIBILITIES

- A. Publish the Direct Client Service Provider Criteria on its website.
- B. Review Agency's recommendation for Providers to receive funding.
- C. Determine, with input from the Agency, the maximum amount to be awarded to each Direct Client Service Provider, and such amount shall not exceed 85 percent of the annual revenue for the prior year of any provider.
- D. Provide Agency written approval to communicate acceptance or denial of Providers to participate in the Program and provide the amount of funding to be provided during the next contract term.
- E. Conduct an annual audit of each Direct Client Service Provider by an independent certified public accountant within 120 days of the completion of its fiscal year verifying that it has complied with all requirements of this article and any other requirements of the DPH.

5. DELIVERABLES

Payment of invoices is contingent on the timely remittance of the deliverables and the submission of invoices. Failure to submit deliverables as required may delay or negate payment of invoice.

- A. Communicate acceptance or denials of the application to Providers within 7 days of DPH approval.
- B. Subcontract with participating providers within 15 days of approval.
- C. As needed, coordinate activities and correspondence between DPH and Direct Client Service Providers.
- D. Within two weeks of the end of the quarter, submit quarterly reports on the forms provided by DPH.
- E. Within 2 weeks of the end of the contract term, submit an Annual Report using the form provided by DPH, and submit Provider annual reports to DPH.

RATE SCHEDULE BUDGET

CONTRACTOR	CONTRACT NUMBER
TBA	40500-043-17172130
CONTRACTOR CONTACT NAME	CONTRACTOR CONTACT PHONE NUMBER
Electronic Funds Transfer? <input checked="" type="checkbox"/> Yes (Authorization for EFT must be attached or on file) <input type="checkbox"/> No	

Remit Invoices to:

Georgia Department of Public Health
Attn: Renee Johnson
2 Peachtree St. NW, 11-227
Atlanta, GA 30303

DESCRIPTION OF SERVICES	Dollar Amount per Unit of Measure	Unit of Measure (i.e., each, month, lot)	Number of Units (Quantity)	Total Approved Budget Funds
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
	\$			\$
			TOTAL	\$

EXHIBIT A

APPLICATION TO PARTICIPATE IN PREGNANCY SUPPORT SERVICES PROGRAM

Application Guidelines and Submission Procedure:

The attached Application Form must be completed by each applicant.

Program Period:	12 months
Copies to submit:	1 original application via US Mail plus 1 electronic copy via email
Page Maximums:	Please note space limitations in each section of the application
Send Application to:	<u>By Mail:</u> TBD (Contractor Agency Name) Attn: Address City, State, Zip <u>By Email:</u> Contractor Agency Lead

Application Deadline: Application must be received by : TBD
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Requirements for the Application:

- Only nonprofit organizations in Georgia with a tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986 may apply for this funding.
- Only organizations that have provided pregnancy support services for a minimum of one year may apply for this funding.
- Applicants must have a primary mission of promoting healthy pregnancy and childbirth.

Required Components: Please only use space allocated. See Application Form, which begins on page ____ of this document.

Element 1- Capacity Summary (20 points): This section will focus on the organization's mission and vision statement and demographic data and current numbers served for target population.

Element 2- Potential Impact (15 points): This section will focus on the organization's work to promote healthy pregnancies and parenting for vulnerable populations and strategies to address issues of cultural competency serving target population.

Element 3-Program Description (35 points): This section will focus on the steps and processes used to deliver pregnancy support services, experience with delivering these services, as well as identifying any barriers and the strategies used to overcome these obstacles.

Element 4-Evaluation (10 points): This section will focus on the criteria your organization will use to evaluate the success of the program, using measurable goals and objectives, evaluation tools, etc.

Element 5- Budget (10 points): This section will focus on the budget, indicating all income, expenditures and the source of income/funding. Please note any in-kind or matching funds that will support your efforts as part of your budget detail.

Element 6 – Sustainability (10 points): This section will describe efforts to sustain improvements and continue to develop the program after the contract term ends.

Review Process

- Applications will be reviewed by _____. The deadline for submission will be the last working day of the month preceding review. For example, applications received on or before September 30th will be reviewed in October.
- All application questions must be completed to be considered for review.
- Facilities will be notified by email of receipt of the application within ten days of submission.

Award Notification

Award decisions will be announced on or before _____, 2016. Applicants selected for funding will be notified by phone and email.

Applicants selected for funding will be responsible for submitting monthly program and financial updates. A reporting template will be provided.

Instructions for submission of applications

Please mail your complete application to:

TBD (Contractor Agency Name)
Attn:
Address
City, State, Zip
By Email: Contractor Agency Lead

Application Form

Name of Organization: Enter name of organization here

Address: Enter Complete Mailing Address (include city and zip code) here

Contact Person Completing Application:

Name, with Credentials:

Title:

Phone Number:

Email Address:

Element 1: Capacity Summary

1.1. Describe your organization's mission and vision.

1.2 Describe your organization's governing structure, including organizational chart, board of directors and biography of key leadership.

1.3. How does this program fit within the mission/vision of the institution?

1.4. Please provide data for services rendered during the prior year:

Medically indigent women who were provided pregnancy related services ("Medically indigent" means a person who is without health insurance or who has health insurance that does not cover pregnancy or related conditions for which treatment and services are sought, and whose family income does not exceed 200% of the federal poverty level as defined annually by the federal Office of Management and Budget.)

Clients who carried their pregnancy to term, and chose to keep the child

Clients who carried their pregnancy to term, and chose to give the child for adoption

Clients who chose to abort the pregnancy

Clients seen for whom Provider was unable to verify the ultimate decision with regard to the pregnancy

Number of each of the eight Pregnancy Support Services provided:

1. Medical care and information:
 - # Pregnancy tests
 - # Sexually transmitted infection tests
 - # Other health screenings
 - # Ultrasound services
 - # Prenatal care
 - # Birthing classes
2. # Nutritional services and education
3. # Housing, education, and employment assistance during pregnancy and up to one year following a birth
4. # Adoption education, planning, and services
5. # Child care assistance if necessary for the client to receive pregnancy support services
6. # Parenting education and support services for up to one year following a birth
7. # Material items which are supportive of pregnancy and childbirth including, but not limited to, cribs, car seats, clothing, formula, or other safety devices
8. Information regarding health care benefits:
 - # Medicaid coverage
 - # Additional pregnancy related services provided

Element 2: Potential Impact

2.1. What practices or procedures are in place to promote healthy pregnancies and parenting? Include information about staff training, etc.

2.2. Describe a project or specific strategy, if applicable, that your organization has undertaken to increase healthy pregnancies.

2.3. How many additional clients do you estimate that can be served with the funding? Please explain.

Element 3-Program Description:

3.1. Does your organization offer medical care and information, including but not limited to pregnancy tests, sexually transmitted infection tests, other health screening, ultrasound service, prenatal care, and birth classes and planning?

3.2. Does your organization offer nutritional services and education?

3.3. Does your organization offer housing, education, and employment assistance during pregnancy and up to one year following a birth?

3.4. Does your organization offer adoption education, planning, and services?

3.5. Does your organization offer child care assistance if necessary for the client to receive pregnancy support services?

3.6. Does your organization offer Parenting education and support services for up to one year following a birth?

3.7. Does your organization offer material items which are supportive of pregnancy and childbirth including, but not limited to, cribs, car seats, clothing, formula, or other safety devices?

3.8. Does your organization offer information regarding health care benefits, including but not limited to, available Medicaid coverage for the client for pregnancy care that provides health coverage for the client's child upon his or her birth?

3.9. List community resources to which you refer clients for miscellaneous support services.

3.10. List all organizational staff that will participate in this program (include titles and brief description of duties).

Element 4-Evaluation:

4.1. Please select the items for which you currently document:

- ☐ Medical care services
- ☐ Nutritional services and education
- ☐ Housing, education, and employment assistance
- ☐ Adoption education, planning, and services
- ☐ Childcare assistance
- ☐ Parenting education and support services
- ☐ Material items distributed
- ☐ Healthcare benefit services

4.2. Please select the following items for which you routinely collect and analyze data:

- ☐ Medical care services
- ☐ Nutritional services and education
- ☐ Housing, education, and employment assistance
- ☐ Adoption education, planning, and services
- ☐ Childcare assistance
- ☐ Parenting education and support services
- ☐ Material items distributed
- ☐ Healthcare benefit services

4.3. Who will be responsible for data collection for the program?

4.4. What other methods of evaluation (if any) are currently in use?

4.5 Does your organization have the ability to maintain confidentiality in compliance with state and federal law?

Element 5- Budget:

5.1 Describe your organization's system of financial accountability.

5.2. How do you plan to use the funding? Include any plans for in-kind or matching funds.

Element 6 – Sustainability:

6.1 Describe how your organization will sustain increased program services once program funding ends.

Exhibit B
AGREEMENT TO PROVIDE PREGNANCY SUPPORT SERVICES

_____ (Agency), serving as contract management agency to the Georgia Department of Public Health (DPH) in accordance with O.C.G.A. § 31-2A-33, hereby contracts with _____ (Provider) to provide pregnancy support services to eligible clients as follows:

1. Parties; Third Party Beneficiary. The parties to this contract are Agency and Provider. DPH is an intended third-party beneficiary of this Agreement.

2. Term. This contract shall begin on _____ and shall end on _____ unless terminated earlier. Agency's obligation to make payment under Paragraph 6, and Provider's obligations under Paragraphs 7 and 8, shall survive the expiration or termination of this contract.

3. Definitions.

Agency means the entity selected by DPH to serve as contract management agency in accordance with O.C.G.A. § 31-2A-33, and its successors.

Attending Physician means the physician who has primary responsibility at the time of reference for the treatment and care of the client.

Eligible Client means a woman who is a resident of Georgia, who is or believes she may be pregnant, and who is medically indigent.

Medically Indigent means a person who is without health insurance or who has health insurance that does not cover pregnancy or related conditions for which treatment and services are sought, and whose family income does not exceed 200% of the federal poverty level as defined annually by the federal Office of Management and Budget.

Pregnancy Support Services means the following:

- (a) Medical care and information, including but not limited to pregnancy tests, sexually transmitted infection tests, other health screening, ultrasound service, prenatal care, and birth classes and planning;
- (b) Nutritional services and education;
- (c) Housing, education, and employment assistance during pregnancy and up to one year following a birth;
- (d) Adoption education, planning, and services;
- (e) Child care assistance if necessary for the client to receive pregnancy support services;
- (f) Parenting education and support services for up to one year following a birth;

- (g) Material items which are supportive of pregnancy and childbirth including, but not limited to, cribs, car seats, clothing, formula, or other safety devices; and
- (h) Information regarding health care benefits, including but not limited to, available Medicaid coverage for the client for pregnancy care that provides health coverage for the client's child upon his or her birth.

Program means the Positive Alternatives for Pregnancy and Parenting Program established pursuant to O.C.G.A. § 31-2A-31 *et seq.*

4. Client Screening. Provider shall implement procedures to screen and identify Eligible Clients.

5. Services. Provider will offer all eight Pregnancy Support Services to Eligible Clients, and provide such services as needed and at no charge to Eligible Clients, either through its own personnel and facilities or through third-party vendors under contract to Provider. If Provider elects to provide Pregnancy Support Services through a third-party vendor, then Provider must have a written agreement for referral in place which provides, at a minimum, that the vendor shall comply with the Standards of Conduct set out in Paragraph 9 below, and that the vendor shall not charge Eligible Clients for Pregnancy Support Services.

6. Billing and Payment. Provider shall invoice and bill according to **Exhibit C Expenditure of Funds and Exhibit D Invoice** for Pregnancy Support Services which it provides to Eligible Clients, including Pregnancy Support Services that are provided through a third-party vendor:

7. Audits. Provider shall have and maintain a system of financial accountability consistent with generally accepted accounting principles, including an annual budget. Provider shall cooperate with any audit conducted by or on behalf of Agency or DPH deemed necessary to verify that Provider has complied with all the requirements of the Program, including but not limited to furnishing information and documents upon request by the auditors.

8. Reports. Provider shall maintain accurate records and shall report data to the Agency monthly and in an Annual Report on the forms provided by DPH. At a minimum, the monthly report will include the following monthly and annual aggregate information:

- (a) the unduplicated number of Eligible Clients who visited Provider;
- (b) the unduplicated number of Eligible Clients who received one or more Pregnancy Support Services;
- (c) the unduplicated number of Eligible Clients who received each of the eight Pregnancy Support Services;
- (d) the unduplicated number of Eligible Clients who were determined to be pregnant; and
- (e) the unduplicated number of Eligible Clients who
 - i. carried their pregnancy to term, and chose to keep the child;
 - ii. carried their pregnancy to term, and chose to give the child up for adoption;

- iii. chose to abort the pregnancy; and
- iv. the number of Eligible Clients seen for whom Provider was unable to verify the ultimate decision with regard to the pregnancy.

9. Standards of Conduct. Provider shall abide by the following standards of conduct with regard to all Eligible Clients, and shall ensure that any third-party vendors it engages to provide Pregnancy Support Services does the same:

- (a) Provider shall protect the confidentiality of Eligible Clients' personal health information in accordance with HIPAA and **Attachment 9 Business Associate Agreement**;
- (b) Provider shall provide Eligible Clients with their own personal health information upon request in accordance with HIPAA;
- (c) Provider shall not provide an Eligible Client with an abortion; directly refer an Eligible Client to an abortion provider for an abortion; or encourage or affirmatively counsel an Eligible Client to have an abortion, unless the client's attending physician diagnoses a condition which makes such abortion necessary to prevent her death;
- (d) Provider shall not promote any religious or political cause to an Eligible Client through any means, including, but not limited to, counseling or written materials. This does not preclude the Provider from having religious or political discussions, and providing such written materials, in its activities that are not related to the Program.
- (e) Provider shall not represent, by suggestion, statement, or omission, that it provides abortion services;
- (f) Provider shall not employ any name, symbol, or slogan that represents, by suggestion, statement, or omission, that it is an abortion facility;
- (g) Provider shall not represent, by suggestion, statement, or omission, that it provides medical services, unless it employs a licensed physician or nurse on the premises to provide the medical services;
- (h) Provider shall provide each Eligible Client with accurate information on the developmental characteristics of babies and of unborn children, including offering the printed materials described in Code Section 31-9A-4 on fetal development and assistance available following a birth;
- (i) Provider shall provide information regarding the risks and consequences of pregnancy, childbirth, and abortion. Such information shall be accurate, scientifically based, and consistent with the standards of the American Medical Association and the American Congress of Obstetricians and Gynecologists; and
- (j) Provider shall not use the DPH name or logo in any manner, including advertisements, internet pages, or written materials, without the express prior written permission of the DPH Director of Communications.

- 10. **Termination.** This contract may be terminated by the Agency at any time for breach or for convenience.
- 11. **Non-Discrimination.** Provider shall not discriminate against any client on the basis of race, national origin, gender, age, religion, or any other ground prohibited by state or federal law.
- 12. **Entire Agreement.** This contract constitutes the entire agreement between the parties and supersedes any prior discussions or understandings. It may be amended only by a writing plainly titled "Amendment" and signed by both parties. Provider's rights and duties under this contract cannot be assigned.

This _____ day of _____, 20_____.

AGENCY

PROVIDER

Name:
Title:

Name:
Title:

EXHIBIT C EXPENDITURE OF FUNDS

Proposed Budget

Prior to each contract term, each direct client services provider must submit for approval a proposed budget and budget narrative. This provides an estimation of the organization's cost for providing Pregnancy Support Services. The proposed budget shall include the cost of Pregnancy Support Services to be provided, the personnel time spent to provide those services, and other allowable expenditures listed below.

Providers will be compensated at the rate of \$60.00 per hour for the personnel time spent to provide Pregnancy Support Services to clients

Pregnancy tests will be reimbursed at the rate of \$1.50 per pregnancy test provided to clients.

Providers will be reimbursed for other allowable expenses that are reasonable, necessary and directly related to the provision of approved Pregnancy Support Services (*see a full list of allowable and non-allowable expenditures at the end of this page*). Providers shall include a request for these funds in their proposed budget and include any documentation necessary to support the request (*i.e. description of need, pricing, etc.*).

Once approved, the budget will set out the maximum reimbursement amount for the contract term. Providers may submit a written request for a budget amendment.

Remuneration for Services

Providers will be reimbursed for expenditures for Pregnancy Support Services up to the approved budget amount.

Monthly Invoice and Monitoring Report

Providers must request payment on a monthly basis through the submission of the properly completed *Invoice* and *Monthly Monitoring Report*.

The monthly invoice and report are due to the contract management agency by the 15th day of the month. Should the 15th fall on a Saturday or a Sunday, the invoice and report are due the following Monday.

Procedure for Incorrect Invoice Packets

The contract management agency will not correct invoices. If there are errors, providers will receive an e-mail and will be responsible for submitting a new corrected invoice.

Allowable expenditures include the following:

- Promotional items- Pens, coffee cups, etc.
- Brochures- Non faith-based (with prior approval of content)
- Postage and delivery- (for direct correspondence to Pregnancy Support Clients)
- Training supplies- For program related topics (not faith-based)
- Office supplies -As related to direct program services

- Printing- As related to the contract
- Bus passes- Expense above reimbursement for client transportation to and from provider and health care provider

Non-Allowable Expenditures for items listed below are prohibited:

- Flowers
- Plaques
- Decorative items, such as potted plants, statues, pictures, etc.
- Greeting cards
- Fees and dues related to professional or occupational licenses
- Entertainment, including food, candy, drinks, or decorations
- Severance pay and unearned leave
- Organizational affiliations, fund raising, or lobbying
- Capital improvements, alterations, building construction, or renovations
- Purchase of vehicles
- Cash awards to employees or ceremony expenditures
- Penalty on borrowed funds
- Direct monetary assistance to clients
- Development of software programs
- Personal cellular telephones
- Office parties, entertainment
- Appliances for *the personal convenience of the staff* including microwave ovens, refrigerators, coffee pots, portable heaters, fans, etc.
- Water coolers, bottled water

EXHIBIT D

MONTHLY INVOICE

Company Name Street Address, City, ST ZIP Code Phone Fax email	
BILL To Contact Name Company Name Street Address City, ST ZIP Code phone No.	COMMENTS

Date	DESCRIPTION	BALANCE	AMOUNT
AMOUNT DUE			

Remittance	
Statement #	Statement #
Date	Date
Amount Due	Amount Due

ATTACHMENT 8 INSURANCE or BOND FORMS

Contractor shall, at a minimum, prior to the commencement of work, procure the insurance policies identified below at Contractor's own cost and expense and shall furnish DPH with proof of coverage at least in the amounts indicated. Proof of insurance must be received by the DPH Contracts Administration within 10 days of execution of this contract. Proof of insurance on renewals must be received by DPH Contracts Administration prior to start date of renewal period. It shall be the responsibility of Contractor to require any subcontractor to secure the same insurance coverage as prescribed herein for Contractor, and to obtain a certificate evidencing that such insurance is in effect. Contractor shall indemnify, hold harmless and name the following as Additional Insured: DPH, the State of Georgia, its officers, employees and agents from any liability arising out of Contractor's or subcontractor's untimely failure in securing adequate insurance coverage as prescribed herein:

- A. Workers' Compensation Insurance, the policies to insure the statutory limits established by the General Assembly of the State of Georgia. The Workers' Compensation Policy must include Coverage B – Employer's Liability Limits of:
 - Bodily Injury by Accident \$100,000.00 per employee
 - Bodily Injury by Disease \$100,000.00 per employee
 - Bodily Injury by Disease \$500,000.00 policy limit
- B. Commercial General Liability Policy(ies) as follows:
 - General Aggregate Limit \$2,000,000.00
 - Products & Completed Operations Limit \$2,000,000.00
 - Each Occurrence \$1,000,000.00
 - Personal & Advertising Injury Limit \$1,000,000.00
- C. Automobile Liability
 - Combined Single Limit \$1,000,000.00
- D. Liability for property damage in the amount of \$3,000,000.00, including contents coverage for all records maintained pursuant to this Contract.
- E. Failure to provide Proof of Insurance within the timeframe described above will result in the termination of this contract.
- F. As stated above, contractor shall procure and maintain insurance which shall protect the contractor and the state from any claims for bodily injury, property damage, or personal injury which may arise out of operations under the agreement. Contractor shall procure the insurance policies at the contractor's own expense and shall furnish the state an insurance certificate listing the state as certificate holder. The insurance certificate must document that the liability insurance coverage purchased by the contractor includes contractual liability coverage to protect the state. The certificate shall be furnished no later than ten (10) business days after notification of the State's intent to award a contract. In addition, the insurance certificate must provide the following information:
 - 1. Name and address of authorized agent

2. Name and address of insured
3. Name of insurance company (licensed to operate in Georgia)
4. Description of coverage in standard terminology
5. Policy period
6. Limits of liability
7. Name and address of certificate holder
8. Acknowledgment of notice of cancellation to the state
9. Signature of authorized agent
10. Telephone number of authorized agent
11. Details of policy exclusions in comments section of insurance certificate

ATTACHMENT 9

Department of Public Health Form GC-00901A

BUSINESS ASSOCIATE AGREEMENT

WHEREAS, the Georgia Department of Public Health (“DPH”) and <Contractor Name> (“Contractor”) have entered into the attached Contract, whereby Contractor will provide functions, activities, or services to DPH involving the use of Protected Health Information (“PHI”) as defined by Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);

WHEREAS, DPH is required by HIPAA to enter into a Business Associate Agreement with entities which provide functions, activities, or services on behalf of DPH involving the use of PHI;

NOW, THEREFORE, in consideration of the mutual promises contained herein, DPH and Contractor agree as follows:

1. Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in HIPAA and Title XIII of the American Recovery and Reinvestment Act of 2009 (the Health Information Technology for Economic and Clinical Health Act, or “HITECH”), and in the implementing regulations of HIPAA and HITECH, now and as they may be amended in the future. Together HIPAA, HITECH, and their implementing regulations are referred to in this Agreement as the “Privacy Rule and the Security Rule.”
2. Subject to the limitations of this Agreement, Contractor may use or disclose PHI only to the extent necessary to meet its responsibilities as set forth in the Contract, provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if done by DPH.
3. Contractor warrants that the individuals described on Attachment D-1 require access to PHI in order to perform services under the Contract. Contractor shall update Attachment D-1 as necessary.
4. Contractor warrants that the individuals described on Attachment D-2 require access to a DPH information system in order to perform services under the Contract. Contractor shall notify the DPH Project Leader no less than 24 hours in advance if any other individuals will need access to the DPH information system
5. Contractor warrants that only individuals designated by title or name on Attachments D-1 and D-2 will request or access PHI from DPH, that they will only do so in the performance of services under the Contract, and that these individuals will only request the minimum necessary amount of information in order to perform those services.
6. The parties agree that Contractor is a “Business Associate” to DPH within the meaning of the Privacy and Security Rule. Contractor shall comply with all obligations of the Privacy Rule and Security Rule that apply to DPH, and shall comply with all Privacy Rule and Security Rule requirements that apply to Business Associates. Contractor further warrants that it maintains and follows written policies and procedures to achieve and maintain compliance with the Privacy and Security Rules that apply to Business Associates, and that it will update such policies and procedures as necessary in order to comply with the and changes to the Privacy and Security

Rules. These policies and procedures, and evidence of their implementation, shall be provided to DPH upon request.

7. All communications related to compliance with this Agreement will be forwarded to the following Privacy and Security Contacts:

- A. At DPH:
- Meredith Grant
HIPAA Privacy Officer, Office of General Counsel
2 Peachtree Street, NW, 9th Floor
Atlanta, Georgia 30303
Meredith.Grant@dph.ga.gov
404-232-1682
- Tamika Bass, CISA, CRISC, CBCP
Chief Information Security Officer, Office of Information Technology
2 Peachtree Street, NW, 12th Floor
Atlanta, Georgia 30303
Tamika.Bass@dph.ga.gov
404-463-0802

- B. At Contractor: _____
- _____
- _____

8. Contractor further agrees:

- A. Contractor will not request, create, receive, use or disclose PHI other than as permitted or required by this Agreement, the Contract, or law.
- B. Contractor will establish, maintain and use appropriate administrative, physical, and technical safeguards to prevent loss, use, or disclosure of the PHI other than as provided for by this Agreement, the Contract, or law.
- C. Contractor will implement and use administrative, physical, and technical safeguards that protect the confidentiality, integrity and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of DPH.
- D. In addition to the safeguards described above, Contractor shall impose access controls that restrict access to PHI to the individuals listed on D-1 and D-2, as amended from time to time.
- E. Contractor will password-protect and encrypt all electronic PHI for transmission and for storage on portable computers and media devices.
- F. Contractor will mitigate, to the extent practicable, any harmful effect that result from a loss, use, or disclosure of PHI by Contractor in violation of the requirements of this Agreement, the Contract, or law. Contractor shall bear the costs of mitigation, which shall include the

reasonable costs of credit monitoring or credit restoration when the use or disclosure results in exposure of information commonly used in identity theft (including name, date of birth, and Social Security Number.)

- G. Contractor will maintain a written Business Associate Agreement with any agent or subcontractor that will create, receive, maintain, or transmit on Contractor's behalf any PHI pertaining to DPH. Such Agreement shall provide that Contractor's agent or subcontractor agrees to the same restrictions and conditions of this Agreement with respect to PHI that Contractor receives from DPH, and that Contractor's agent or subcontractor assumes the same duties with regard to the PHI that Contractor has assumed under this Agreement. Contractor further agrees that if it becomes aware of a pattern of activity or practice of its agent or subcontractor that constitutes a material breach or violation of its agreement with Contractor, then Contractor shall take reasonable steps to cure the breach or end the violation, and if such steps are unsuccessful, terminate the agreement.
- H. Contractor will immediately report to DPH any "Breach" as defined by 45 CFR 164.402, and any known or suspected loss, use, or disclosure of PHI that is not authorized by this Agreement, the Contract, or law.
- I. Make an initial report to DPH in writing in such form as DPH may require within three business days after Contractor learns of a suspected unauthorized loss, use, or disclosure of PHI. This report will include the following:
 - i. The nature of the loss, use, or disclosure, a brief description of what happened, the date it occurred, and the date Contractor discovered the incident;
 - ii. The specific data points of PHI involved in the loss, use, or disclosure;
 - iii. The names of all persons with knowledge of the loss, use, or disclosure, and the names or categories of persons who may have obtained access to the PHI as a result;
 - iv. The corrective or investigative actions taken or to be taken in order to mitigate harmful effects, and to prevent further losses, uses, or disclosures;
 - v. Recommended protective actions to be taken by individuals whose PHI may have been lost, used, or disclosed; and
 - vi. Whether Contractor believes that the loss, use, or disclosure constitutes a Breach.
- J. Contractor will, upon request by the DPH Privacy Officer or the DPH Information Security Officer, provide a complete report of the Breach to DPH including a root cause analysis and a proposed corrective action plan. Upon request by DPH, Contractor shall implement the corrective action plan and provide proof of implementation.
- K. Contractor will report to the DPH Privacy Officer and the DPH Information Security Officer any successful unauthorized access, modification, or destruction of PHI or interference with system operations in Contractor's information systems as soon as practicable but in no event later than three business days of discovery.

- L. Contractor will cooperate with DPH and provide assistance necessary for DPH to determine whether a Breach has occurred, and whether notification of the Breach is legally required or otherwise appropriate.
- M. If DPH determines that a Breach has occurred as a result of Contractor's loss, use, or disclosure of PHI or failure to comply with obligations set forth in this Agreement or in the Privacy or Security Rule, then Contractor will provide all required notices to affected individuals, the Secretary of the U. S. Department of Health and Human Services, and the media, at Contractor's expense and in accordance with 45 C.F.R. Part 164 subpart D. Such notices shall be submitted in advance to the DPH Privacy Officer for approval.
- N. Contractor will honor requests by DPH or by an individual for access to the individual's own PHI in accordance with 45 CFR 164.524; to make PHI available for amendment, and to incorporate such amendments into a designated record set in accordance with 45 CFR 164.526; to provide an accounting of all disclosures of the individual's PHI in accordance with 45 CFR 164.528; to document any such requests and the Contractor's response; and to notify DPH as soon as practicable of any such requests.
- O. Contractor will provide access to the Secretary of the U.S. Department of Health and Human Services to Contractor's books and records and policies, practices, or procedures relating to the use and disclosure of PHI received from DPH, or created or received by Contractor on behalf of DPH.
- P. In addition to any indemnification provisions in the Contract, Contractor will indemnify DPH from any loss or liability resulting from any violation of the HIPAA Privacy and Security Rules or Breach that arises from the conduct or omission of Contractor or its employees, agents, or subcontractors. Such liability will include without limitation all actual and direct costs, settlement payments, damages awarded, civil penalties, litigation expenses, and attorneys' fees incurred by DPH.

9. Unless otherwise provided by law, DPH agrees that it will:

- A. Notify Contractor of any new limitation in DPH's Notice of Privacy Practices in accordance with the provisions of the Privacy Rule if such limitation will affect Contractor's use or disclosure of PHI.
- B. Notify Contractor of any change in, or revocation of, permission by an individual for DPH to use or disclose PHI if such change or revocation will affect Contractor's use or disclosure of PHI.
- C. Notify Contractor of any restriction regarding its use or disclosure of PHI that DPH has agreed to in accordance with the Privacy Rule if such restriction will affect Contractor's use or disclosure of PHI.
- D. Before agreeing to any changes in or revocation of permission by an individual, or any restriction to use or disclose PHI, DPH will contact Contractor to determine feasibility of compliance. DPH agrees to assume all costs incurred by Contractor in compliance with such special requests.

10. The effective date of this Agreement shall be the same as that of the Contract. Unless otherwise terminated, this Agreement shall continue until all of the PHI provided by DPH to Contractor, or

created or received by Contractor on behalf of DPH, is destroyed or returned to DPH.

- A. Termination for Cause. Upon violation of a material term of this Agreement by Contractor, DPH may provide an opportunity for Contractor to cure the breach and, if Contractor fails to cure the breach, terminate the contract upon 30 calendar days' notice.
- B. Termination for Convenience. In the event that the Contract is terminated for any reason, then DPH may terminate this Agreement for convenience.
- C. Effect of Termination.
 - i. Upon termination of this Agreement, DPH shall determine whether return or destruction of PHI is feasible. If so, then Contractor shall at the direction of DPH either destroy the PHI or to return it to DPH, keeping no copies. If DPH determines that return or destruction is not feasible, then Contractor shall continue to extend the protections of this Agreement to the PHI for as long as Contractor maintains the PHI, and shall limit the use and disclosure of the PHI to those purposes that make the return or destruction of the PHI infeasible.
 - ii. The obligations imposed upon Contractor with respect to its care, use, and disclosure of PHI, and its duty to comply with the Privacy and Security Rule with regard to such PHI, shall survive the termination of this Agreement and the termination or completion of the Contract.

11. Nothing in this Agreement is intended to confer any rights, remedies, obligations, or liabilities upon anyone other than DPH and Contractor.

12. This Agreement is intended to supplement, and not to diminish or alter, the terms and conditions of the Contract.

<Contractor Name>

BY: _____
SIGNATURE

TITLE

DATE

ATTACHMENT D-1

Individuals Permitted to Receive, Use, and Disclose DPH PHI

The following individual, as employees or agents of Contractor, need access to DPH Protected Health Information in order for Contractor to perform the services described in the Contract:

- _____ Title: _____
- _____
- _____ Title: _____
- _____
- _____ Title: _____
- _____
- _____ Title: _____
- _____
- _____ Title: _____

Approved methods of secure delivery of PHI between Contractor and DPH:

- Secure FTP file transfer (preferred)
- Encrypted email or email sent through "secure tunnel" approved by DPH Information Security Officer
- Email of encrypted document (password must be sent by telephone only)
- Encrypted portable media device and tracked delivery method

Contractor must update this list as needed and provide the updated form to the DPH Project Leader. Use of DPH Protected Health Information by individuals who are not described on this Attachment D-1, as amended from time to time, is a violation of the Agreement.

DPH Project Leader Contact Information:

ATTACHMENT D-2

Part 1:

Please initial beside the correct option. Please select only one option.

_____ Contractor DOES NOT need any user accounts to access DPH Information Systems. Do not complete Part 2 of this form.

_____ Contractor DOES need user accounts to access DPH Information Systems. Please complete Part 2 of this form.

Part 2:

Please complete the table below if you indicated that Contractor DOES need any user accounts to access DPH Information Systems. Please attach additional pages if needed.

List of Individuals Authorized to Access a DPH Information System Containing PHI

The following individuals, as employees or agents of Contractor, need access to DPH Information Systems containing DPH Protected Health Information in order for Contractor to perform the services described in the Contract:

Full Name	Employer	DPH Information System	Type of Access (Read only? Write?)

The DPH Project Leader must submit a completed DPH Network Access Request Form for each individual listed above, and for anyone who might later be added to this list.

Contractor must notify the Project Leader identified in the Contract immediately, but at least within 24 hours, after any individual on this list no longer needs the level of access described. Failure to provide this notification on time is a violation of the Agreement.

Contractor must update this Attachment D-2 as needed and provide the updated form to the DPH Project Leader.

[DPH Form GC-00901A (Rev. 7.2.2013)]